

AMENDED IN ASSEMBLY APRIL 25, 2006
AMENDED IN ASSEMBLY APRIL 19, 2006
AMENDED IN ASSEMBLY APRIL 17, 2006
AMENDED IN ASSEMBLY MARCH 9, 2006
AMENDED IN ASSEMBLY FEBRUARY 16, 2006
AMENDED IN SENATE AUGUST 30, 2005
AMENDED IN SENATE AUGUST 17, 2005
AMENDED IN SENATE AUGUST 15, 2005
AMENDED IN SENATE JULY 1, 2005

SENATE BILL

No. 1015

Introduced by Senator Murray

February 22, 2005

An act to amend Section 2024.6 of, *and to add Section 2024.7 to,* the Family Code, *and to amend Section 68085.1 of the Government Code,* relating to dissolution of marriage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Murray. Dissolution of marriage: financial declarations.

(1) Existing law permits a party to request that documents listing or identifying the parties' assets and liabilities be sealed in specified family law proceedings, including dissolution of marriage.

This bill would revise those provisions to include documents listing or identifying the parties' income or expenses, permit specified

portions of those records to be redacted, subject to a finding by the court, and make related changes. This bill would additionally require the court, upon request of a party, to redact the social security number, residence address, and certain financial information of a party, as specified. This bill would require the Judicial Council to adopt rules governing procedures for redacting and restoring those records. *This bill would require the Judicial Council, if funds are appropriated, to conduct a study regarding gender fairness in the family courts and report the results of the study to the Legislature, as specified.* This bill would make legislative findings and declarations relating to dissolution of marriage and financial information.

(2) Existing law requires that certain fees and fines collected by superior courts be deposited into a bank account established by the Administrative Office of the Courts for distribution, as specified, with the balance deposited in the Trial Court Trust Fund in the State Treasury.

This bill would permit the Judicial Council to charge and collect a reasonable fee to recover the actual costs of redaction and file maintenance. This bill would require those fees to be deposited in the Trial Court Trust Fund.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) The fundamental right of privacy protects against
- 3 unwarranted intrusion into private financial affairs, including
- 4 those affairs disclosed in a dissolution of marriage, nullity of
- 5 marriage, or legal separation proceeding.
- 6 (b) The law of this state requires any party to a proceeding for
- 7 dissolution of marriage, nullity of marriage, or legal separation to
- 8 disclose fully in documents that are filed with the court hearing
- 9 that proceeding, thereby becoming a matter of public record,
- 10 detailed and sensitive financial information, including the nature,
- 11 extent, and location of the party's assets, liabilities, income, or
- 12 expenses, and information, such as social security numbers and

1 bank account numbers, that can be used to identify and locate the
2 party's assets, liabilities, income or expenses.

3 (c) The sensitive financial information that the law compels a
4 party to a proceeding for dissolution of marriage, nullity of
5 marriage, or legal separation to disclose into the public record is
6 subject to use for improper purposes, particularly including, but
7 not limited to, the burgeoning crime of identity theft.

8 (d) Much of existing law concerning the redaction and sealing
9 of court records was enacted or otherwise promulgated prior to
10 the current epidemic of identity theft and the widespread use of
11 electronic databases, containing sensitive financial and other
12 personal information, which data is vulnerable to misuse.
13 Recently enacted federal legislation protects and guards against
14 the misuse of personal information, including the risk of child
15 abduction, stalking, kidnapping, and harassment by third parties.
16 Existing state law is inadequate to protect these widespread
17 privacy concerns.

18 (e) Local court rules regarding the disclosure of sensitive
19 financial information vary from county to county. This act is
20 intended to provide uniformity with respect thereto.

21 (f) For these reasons, the Legislature finds that existing law
22 concerning the redaction and sealing of court records does not
23 adequately protect the right of privacy in financial and marital
24 matters to which parties to a proceeding for dissolution of
25 marriage, nullity of marriage, or legal separation are entitled. It is
26 the intent of the Legislature to protect more fully their right of
27 privacy while acknowledging and balancing the public's right of
28 access to public records and judicial proceedings. Accordingly,
29 in proceedings for dissolution of marriage, nullity of marriage, or
30 legal separation, the Legislature finds that unnecessary public
31 disclosure of financial assets, liabilities, income, expenses and
32 residential addresses raises a substantial probability of prejudice
33 to a financial privacy interest that overrides the public's right of
34 access to court records. The Legislature further finds that the
35 redaction of documents containing the above information is the
36 least restrictive means of protecting the financial privacy interest
37 of the parties while recognizing the public's right of access to
38 court records.

39 SEC. 2. Section 2024.6 of the Family Code is amended to
40 read:

2024.6. (a) Notwithstanding any other provision of law and except as described in subdivision (d), upon request by a party to a proceeding for dissolution of marriage, nullity of marriage, or legal separation, the court shall order redacted the specified portion of a pleading filed with the court that lists the parties' financial assets, liabilities, income, or expenses, or provides the location of, including a residential address, or identifying information about, those assets, liabilities, income, or expenses, if the court expressly finds facts that establish all of the following:

(1) There exists an overriding interest that overcomes the public's right of access to public records.

(2) The overriding interest supports redaction of the pleading or portion of a pleading.

(3) A substantial probability exists that the overriding interest will be prejudiced if the pleading is not redacted.

(4) The proposed redaction is narrowly tailored.

(5) No less restrictive means exist to achieve the overriding interest.

(b) In making the determination described in subdivision (a), the court shall balance a particularized showing of the public interest in open access to judicial proceedings against the asserted privacy rights of spouses, children, and other interested parties.

(c) Except as described in subdivision (d) and subject to the direction of the court, no more of any pleading shall be redacted than is necessary to protect the parties' overriding right to privacy. The request under this section shall be made by noticed motion. Nothing redacted pursuant to this section may be restored except upon petition to the court and a showing of good cause.

(d) Upon the request of a party, the court shall order redacted from a pleading all of the following information regarding a party to the proceeding:

(1) A social security number.

(2) The address of a residence *unless that address is provided as the address for service of process of a party*.

(3) The name on, and account number and balance of, a bank account, brokerage account, or an account at any other financial institution.

1 (4) Annual salary or income.

2 (5) Net worth.

3 (e) (1) Commencing not later than July 1, 2007, the Judicial
4 Council form used to declare assets and liabilities and income
5 and expenses of the parties in a proceeding for dissolution of
6 marriage, nullity of marriage, or legal separation of the parties
7 shall require the party filing the form to state whether the
8 declaration contains identifying information on the assets,
9 liabilities, income, or expenses listed therein. If the party making
10 the request pursuant to subdivision (a) uses a pleading other than
11 the Judicial Council form, the pleading shall exhibit a notice on
12 the front page, in bold capital letters, that the pleading lists or
13 identifies financial information and is therefore subject to this
14 section. By the same date, the Judicial Council shall also adopt
15 rules setting forth the procedures to be used for redacting and
16 restoring pleadings pursuant to this section.

17 (2) *The Judicial Council may also adopt a rule to authorize*
18 *the court to charge a reasonable fee to recover the actual cost of*
19 *redaction described in subdivision (d). Those fees may include,*
20 *but are not limited to, administrative costs and expenses incurred*
21 *by the court for the time court personnel spend on redaction and*
22 *file maintenance. Any fees collected pursuant to this paragraph*
23 *shall be deposited in the Trial Court Trust Fund as described in*
24 *Section 68085.1 of the Government Code.*

25 (f) For purposes of this section, “pleading” means a document
26 filed with the court that sets forth or declares the assets,
27 liabilities, income, or expenses of one or both of the parties,
28 including, but not limited to, a marital settlement agreement
29 exhibit, schedule, transcript, or any document incidental to a
30 declaration or marital settlement agreement that lists or identifies
31 financial information.

32 (g) The party requesting redaction of a pleading pursuant to
33 subdivision (a) shall serve a copy of the unredacted pleading, a
34 proposed redacted pleading and the request for redaction on the
35 other party or parties to the proceeding and file the proof of
36 service with the request for redaction with the court.

37 (h) Nothing in this section precludes a party to a proceeding
38 described in this section from using any document or information
39 contained in a pleading redacted pursuant to this section in any
40 manner that is not otherwise prohibited by law.

1 (i) Nothing in this section precludes a law enforcement or
2 government regulatory agency that is otherwise authorized to
3 access public records from accessing unredacted pleadings.

4 (j) *All information redacted pursuant to this section shall be*
5 *made available to and used by the Judicial Council only for*
6 *statistical purposes as described in Section 2024.7.*

7 SEC. 3. *Section 2024.7 is added to the Family Code, to read:*

8 2024.7. *The Judicial Council shall, if funds are appropriated*
9 *for that purpose, conduct a study regarding gender fairness in*
10 *the family courts, which shall include an analysis of the*
11 *information redacted pursuant to Section 2024.6. The Judicial*
12 *Council shall report the results of the study to the Legislature 18*
13 *months after receiving that appropriation, and every 10 years*
14 *thereafter.*

15 SEC. 4. *Section 68085.1 of the Government Code is amended*
16 *to read:*

17 68085.1. (a) This section applies to all fees and fines that are
18 collected on or after January 1, 2006, under all of the following:

19 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
20 704.750, 708.160, 724.100, 1134, 1161.2, and 1218 of,
21 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
22 Section 411.21 of, and Chapter 5.5 (commencing with Section
23 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

24 (2) *Paragraph (2) of subdivision (e) of Section 2024.6 of the*
25 *Family Code.*

26 (3) Section 31622 of the Food and Agricultural Code.

27 ~~(3)–~~

28 (4) Sections 68086 and 68086.1, subdivision (d) of Section
29 68511.3, Sections 68926.1 and 69953.5, and Chapter 5.8
30 (commencing with Section 70600).

31 ~~(4)–~~

32 (5) Section 103470 of the Health and Safety Code.

33 ~~(5)–~~

34 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1
35 of the Penal Code.

36 ~~(6)–~~

37 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the
38 Probate Code.

39 ~~(7)–~~

40 (8) Sections 14607.6, 16373, and 40230 of the Vehicle Code.

1 ~~(8)–~~

2 (9) Section 71386 of this code and Section 1513.1 of the
3 Probate Code, if the reimbursement is for expenses incurred by
4 the court.

5 (b) On and after January 1, 2006, each superior court shall
6 deposit all fees and fines listed in subdivision (a), as soon as
7 practicable after collection and on a regular basis, into a bank
8 account established for this purpose by the Administrative Office
9 of the Courts. Upon direction of the Administrative Office of the
10 Courts, the county shall deposit civil assessments under Section
11 1214.1 of the Penal Code and any other money it collects under
12 the sections listed in subdivision (a) as soon as practicable after
13 collection and on a regular basis into the bank account
14 established for this purpose and specified by the Administrative
15 Office of the Courts. The deposits shall be made as required by
16 rules adopted by, and financial policies and procedures
17 authorized by, the Judicial Council under subdivision (a) of
18 Section 77206. Within 15 days after the end of the month in
19 which the fees and fines are collected, each court, and each
20 county that collects any fines or fees under subdivision (a), shall
21 provide the Administrative Office of the Courts with a report of
22 the fees by categories as specified by the Administrative Office
23 of the Courts. The fees and fines listed in subdivision (a) shall be
24 distributed as provided in this section.

25 (c) (1) Within 45 calendar days after the end of the month in
26 which the fees and fines listed in subdivision (a) are collected,
27 the Administrative Office of the Courts shall make the following
28 distributions:

29 (A) To the small claims advisory services, as described in
30 subdivision (f) of Section 116.230 of the Code of Civil
31 Procedure.

32 (B) To dispute resolution programs, as described in
33 subdivision (b) of Section 68085.3 and subdivision (b) of Section
34 68085.4.

35 (C) To the county law library funds, as described in Sections
36 116.230 and 116.760 of the Code of Civil Procedure, subdivision
37 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
38 Section 70621 of this code, and Section 14607.6 of the Vehicle
39 Code.

1 (D) To the courthouse construction funds in the Counties of
2 Riverside, San Bernardino, and San Francisco, as described in
3 Sections 70622, 70624, and 70625.

4 (2) If any distribution under this subdivision is delinquent, the
5 Administrative Office of the Courts shall add a penalty to the
6 distribution as specified in subdivision (i).

7 (d) Within 45 calendar days after the end of the month in
8 which the fees and fines listed in subdivision (a) are collected,
9 the amounts remaining after the distributions in subdivision (c)
10 shall be transmitted to the State Treasury for deposit in the Trial
11 Court Trust Fund and other funds as required by law. This
12 remittance shall be accompanied by a remittance advice
13 identifying the collection month and the appropriate account in
14 the Trial Court Trust Fund or other fund to which it is to be
15 deposited. Upon the receipt of any delinquent payment required
16 under this subdivision, the Controller shall calculate a penalty as
17 provided under subdivision (i).

18 (e) From the money transmitted to the State Treasury under
19 subdivision (d), the Controller shall make deposits as follows:

20 (1) Into the State Court Facilities Construction Fund, the
21 Judges' Retirement Fund, and the Equal Access Fund, as
22 described in subdivision (c) of Section 68085.3 and subdivision
23 (c) of Section 68085.4.

24 (2) Into the Health Statistics Special Fund, as described in
25 subdivision (b) of Section 70670 of this code and Section 103730
26 of the Health and Safety Code.

27 (3) Into the Family Law Trust Fund, as described in Section
28 70674.

29 (4) The remainder of the money shall be deposited into the
30 Trial Court Trust Fund.

31 (f) The amounts collected by each superior court under
32 Section 116.232, subdivision (g) of Section 411.20, and
33 subdivision (g) of Section 411.21 of the Code of Civil Procedure,
34 subdivision (d) of Section 68511.3 and Sections 68926.1,
35 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386 of this
36 code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate
37 Code, shall be added to the monthly apportionment for that court
38 under subdivision (a) of Section 68085.

39 (g) If any of the fees provided in subdivision (a) are partially
40 waived by court order or otherwise reduced, and the fee is to be

1 divided between the Trial Court Trust Fund and any other fund or
2 account, the amount of the reduction shall be deducted from the
3 amount to be distributed to each fund in the same proportion as
4 the amount of each distribution bears to the total amount of the
5 fee. If the fee is paid by installment payments, the amount
6 distributed to each fund or account from each installment shall
7 bear the same proportion to the installment payment as the full
8 distribution to that fund or account does to the full fee.

9 (h) Except as provided in Sections 470.5 and 6322.1 of the
10 Business and Professions Code, and Sections 70622, 70624, and
11 70625 of this code, no agency may take action to change the
12 amounts allocated to any of the funds described in subdivision
13 (c), (d), or (e).

14 (i) The amount of the penalty on any delinquent payment
15 under subdivision (c) or (d) shall be calculated by multiplying the
16 amount of the delinquent payment at a daily rate equivalent to
17 1½ percent per month for the number of days the payment is
18 delinquent. The penalty shall be paid from the Trial Court Trust
19 Fund.

20 (j) If a delinquent payment under subdivision (c) or (d) results
21 from a delinquency by a superior court under subdivision (b), the
22 court shall reimburse the Trial Court Trust Fund for the amount
23 of the penalty. Notwithstanding Section 77009, any penalty on a
24 delinquent payment that a court is required to reimburse pursuant
25 to this section shall be paid from the court operations fund for
26 that court. The penalty shall be paid by the court to the Trial
27 Court Trust Fund no later than 45 days after the end of the month
28 in which the penalty was calculated. If the penalty is not paid
29 within the specified time, the Administrative Office of the Courts
30 may reduce the amount of a subsequent monthly allocation to the
31 court by the amount of the penalty on the delinquent payment.

32 ~~SEC. 3.~~

33 *SEC. 5.* This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety
35 within the meaning of Article IV of the Constitution and shall go
36 into immediate effect. The facts constituting the necessity are:

37 Because of the imminent threat of identity theft posed by
38 current law and to protect the right of privacy guaranteed by the

- 1 federal and state constitutions, with respect to dissolution
- 2 proceedings, it is necessary that this act take effect immediately.

O